

### **REMARKS**

Claims 1-7, 9-40, 55-73 were previously pending in this application. Claim 59 has been canceled. Claims 1, 13, 14-18, 29, 34-35, 56-58, 60-62, 65 and 73 have been amended. No new claims have been added. As a result claims 1-7, 9-40, 55-58 and 60-73 are pending for examination with claims 1, 13, 16, 18 and 62 being independent claims. No new matter has been added. Claims 14-15, 17, 29, 34-35, 56-58, 60-61, 65 and 73 have been amended merely to clarify the claimed subject matter and not to distinguish over any art.

### **Allowable Subject Matter**

Applicant acknowledges that claims 4, 21, 28-29, 35-36, 57, 59, 65 and 70 have been indicated as containing allowable subject matter. Claim 16 has been amended herein to include the subject matter of allowable dependent claim 59. The Applicant has deferred rewriting the remaining dependent claims in independent form and instead provides amendments and arguments in favor of patentability hereinbelow.

### **Summary of Telephone Conference with Examiner**

In a telephone conference on August 25, 2004 the applicant's attorneys discussed with Examiner Conley the patentability of the independent claims 1, 13, 18 and 62. The Examiner and the Applicant's representatives discussed the differences between the claims as amended herein and the art of record. In particular, the term "direct" was discussed and has been added to each of claims 1, 13 and 62 to clarify that the external force is *not* provided through the fastener element. The Applicant herein further clarifies that "a direct external force to depress the depressable latch" may be any force applied to move the latch from inhibiting escape of a fastener, other than a force applied through the fastener. Such a force may be applied to the latch with a finger (as illustrated in FIG. 7 of the present application) or using an intermediary device other than the fastener.

The Examiner preliminarily acknowledged that none of the art of record disclosed a fastener or fastener assembly comprising a housing adapted to retain a fastening element in combination with "[a] depressable latch configured such that the fastening element is inhibited

from escaping absent a direct external force to depress the depressable latch.” Each of claims 1 and 13 have been amended to include such a limitation.

Additionally, the Examiner preliminarily acknowledged that none of the art of record discloses a fastener comprising a housing adapted to retain a fastening element and adapted so that a depressible latch is accessible such that a direct external force can be applied to depress the depressable latch. Claim 62 has been amended to recite such a structure.

Further, the Examiner preliminarily acknowledged that none of the art of record discloses a fastener comprising a housing adapted to retain a fastening element in combination with a latch having a flat surface disposed intermediate the housing and the surface upon which the fastener is attached. Claim 18 has been amended to recite such a structure.

#### Rejections Under 35 U.S.C. §103

##### A. Rejections of claims 1-3, 5-7, 9-15, 18-20, 22-27, 30-34, 55, 62-64, 66-69 and 71-73

The Office Action rejected claims 1-3, 5-7, 9-15, 18-20, 22-27, 30-34, 55, 62-64, 66-69 and 71-73 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 1,519,380 to Kochanski (hereinafter Kochanski) in view of U.S. Patent No. 1,423,590 to Zimmerman (hereinafter Zimmerman).

The Office Action alleges that Kochanski discloses a fastener having a depressible latch 14 retaining a fastening element by interference with a lateral surface of the fastening element wherein the depressible latch is configured such that the fastening element is inhibited from escaping absent an external force to depress the depressible latch. The Office Action acknowledges that Kochanski fails to disclose a housing. The Office Action further alleges that Zimmerman discloses a housing. The Office Action concludes that it would have been obvious to modify a fastener as taught by Kochanski to have a housing as taught by Zimmerman in order to prevent the fastening element from being accidentally disconnected from the fastener. The Applicant responds as follows.

Kochanski discloses a fastener including button securing member having a slotted portion 13 and a base portion 12 having a tongue 14 that retains a button. The button is connected to the button securing member by passing the neck of the button through a slot in slotted portion 13 and into a bottom portion of the base member (lines 76-79). The head 11 of the button passes the

tongue 14 by displacing (i.e., springing) the tongue back (lines 79-82). After the button passes the tongue, the tongue springs back into a normal (i.e., un-sprung) position (lines 82-84). In the normal position, the tongue prevents the button from being accidentally disconnected from the button securing member by preventing the button from accidentally sliding along the slot and out of the button securing member (lines 84-85). However, Kochanski states that the button may be disconnected from the button securing member by moving the button along the slot and applying sufficient force to the button to force back the tongue as the head of the button is moved past the tongue (lines 86-90).

Zimmerman discloses a fastener including a tongue 10 that retains a complementary member 4 by pressing against the underside of the complementary member 5 (see Fig. 3 of Zimmerman). To achieve fastening, a head 4 of the complementary member rides over the tongue until it reaches a recess in a socket 2, formed by an end wall 9 and a flange 11 (lines 56-60). The head is sprung up into the recess so that the complementary member cannot become accidentally detached (lines 62-65). Further, Zimmerman states that it is an important feature of his invention that the head is sprung into the recess of the fastening device because, otherwise, there would be a danger of accidental detachment (lines 68-75.)

i. Regarding claims 1-3, 5-7, 9-12 and 55

Even assuming, *arguendo*, that the combination of Kochanski and Zimmerman is proper, which it is not, claim 1 as amended is patentable over the combination. Claim 1 has been amended to recite “[a] depressable latch configured such that the fastening element is inhibited from escaping absent a direct external force to depress the depressable latch.” As stated above in the Summary of the Telephone Conference with the Examiner, the term “direct” has been added to clarify that the external force is not provided through the fastener element. The Applicant herein further clarifies that “a direct external force to depress the depressable latch” may be any force applied to move the latch from inhibiting escape of a fastener, other than a force applied through the fastener. Such a force may be applied to the latch with finger (as illustrated in FIG. 7 of the present application) or using an intermediary device other than the fastener.

Neither Kochanski nor Zimmerman disclose or suggest “[a] depressable latch configured such that the fastening element is inhibited from escaping absent a direct external force to

depress the depressable latch.” To the contrary, Kochanski discloses that “[A button] may be disconnected [from a button securing member] by moving [the button] along the slot and applying sufficient force to force back the tongue as the head of the button is moved past [the tongue].” Accordingly, Kochanski does not disclose or suggest a structure in which a direct external force is to be applied to the latch. Further, it is not possible to apply a direct external force to the latch in Kochanski because the latch is not accessible. That is, slotted portion 13 covers the latch such that a direct external force cannot be applied to the latch.

Similar to Kochanski, Zimmerman discloses a structure in which a fastening element 4 may be disconnected from a housing 2 by pressing the fastening element 4 against a tongue 10. Accordingly, Zimmerman does not disclose a structure in which a direct external force is to be applied to the latch. Further, also similar to Kochanski, it is not possible to apply a direct external force to the latch in Zimmerman because the latch is not accessible. Both, housing 2 and fastening element 4 cover the latch such that a direct external force cannot be applied to the latch.

Accordingly, neither Kochanski nor Zimmerman discloses “[a] depressable latch configured such that the fastening element is inhibited from escaping absent a direct external force to depress the depressable latch,” and therefore claim 1 is patentable over the combination of Kochanski and Zimmerman.

Claims 2-3, 5-7, 9-12 and 55 depend from claim 1 and are patentable for at least the same reason as claim 1. Accordingly, withdrawal of the rejection of these claims is respectfully requested.

ii. Regarding claims 13-15 and 30-34

Even assuming, *arguendo*, that the combination of Kochanski and Zimmerman is proper, which it is not, claim 13 as amended has been amended in a manner similar to claim 1 such that claim 13 is patentable over the combination. Claim 13 has been amended to recite “[a] depressable latch configured such that the fastening element is inhibited from escaping absent a direct external force to depress the depressable latch.”

As stated above with reference to claim 1, neither Kochanski nor Zimmerman discloses “[a] depressable latch configured such that the fastening element is inhibited from escaping

absent a direct external force to depress the depressable latch.” Therefore claim 13 is patentable over the combination of Kochanski and Zimmerman.

Claims 14-15 and 30-34 depend from claim 13 and are patentable for at least the same reason as claim 13. Accordingly, withdrawal of the rejection of these claims is respectfully requested.

iii. Regarding claims 18-20 and 22-27

The Office Action alleges that Kochanski discloses a fastener having a latch 14 with an upwardly inclined first portion to which pressure is applied when the fastening element is moved into engagement with the fastener and an arcuate second portion upon which the fastening element rests when in an engaged position. Similar to the rejection of claim 1, the Office Action acknowledges that Kochanski fails to disclose a housing. Also, similar to the rejection of claim 1, the Office Action then alleges that Zimmerman discloses a housing, and that it would have been obvious to modify a fastener as taught by Kochanski to have a housing as taught by Zimmerman in order to prevent the fastening element from being accidentally disconnected from the fastener. The Applicant responds as follows.

Even assuming, *arguendo*, that the combination of Kochanski and Zimmerman is proper, which it is not, claim 18 as amended is patentable over the combination. Claim 18 has been amended to recite “A fastener that can be attached to a first surface, comprising: a housing comprising a retaining lip having a second surface, at least a portion of the second surface being substantially parallel to the first surface ...; and a latch ... [comprising] ... a second portion comprising a third surface disposed intermediate the first surface and the second surface upon which the fastening element rests when in an engaged position, at least a portion of the third surface being substantially parallel to the first surface.”

By contrast, Kochanski discloses that a head 11 of a button is positioned *next to* the arcuate portion of tongue 14. Accordingly, Kochanski does not disclose a structure comprising a latch ... [comprising] ... a second portion comprising a third surface ... upon which [a] fastening element rests when in an engaged position, at least a portion of the third surface being substantially parallel to the first surface.” For at least this reason, claim 18 is patentable over the combination of Kochanski and Zimmerman.

Claims 19-20 and 22-27 depend from claim 18 and are patentable for at least the same reasons as claim 18. Withdrawal of the above rejections is respectfully requested.

iv. Regarding claims 62-64, 66-69 and 71-73

Even assuming, *arguendo*, that the combination of Kochanski and Zimmerman is proper, which it is not, claim 62 as amended has been amended in a manner similar to claim 1 such that claim 62 is patentable over the combination. Claim 62 has been amended to recite “[a] depressable latch accessible such that a direct external force to depress the depressable latch.”

As stated above with reference to claim 1, neither Kochanski nor Zimmerman discloses “[a] depressable latch configured such that the fastening element is accessible such that a direct external force to depress the depressable latch.” In Kochanski, slotted portion 13 covers the latch such that a direct external force cannot be applied to the latch; and in Zimmerman, housing 2 and fastening element 4 both cover the latch such that a direct external force cannot be applied to the latch. Therefore claim 62 is patentable over the combination of Kochanski and Zimmerman.

Claims 63-64, 66-69 and 71-73 depend from claim 62 and are patentable for at least the same reasons as claim 62. Accordingly, withdrawal of the rejection of these claims is respectfully requested.

B. Rejections of claims 16-17, 37-40, 56, 58 and 60-61

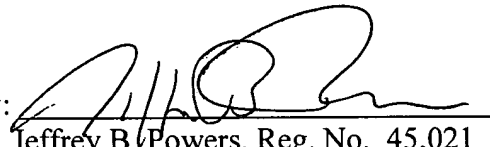
The Office Action rejected claims 16-17, 37-40, 56, 58 and 60-61 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,855,033 to Frissen in view of Kochanski, and further in view of Zimmerman. Claim 16 has been amended to include the subject matter of allowable claim 59. Accordingly, claim 16 is patentable. Claims 17, 37-40, 56, 58 and 60-61 depend from claim 16 and are patentable for at least the same reasons as claim 16. Withdrawal of these rejections is respectfully requested.

**CONCLUSION**

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 50/2762.

Respectfully submitted,  
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